

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants	S. Levin, et al.	Examiner	Kovacs, Arpad F.
Serial No.	09/531,735	Group Art No.	3671
Filed	3/21/2000	Confirmation No.	7129
For	LAWNMOWER CUTTING DECK AND RELEASABLE BLADE		

April 7, 2009

REPLY BRIEF

This is being filed in response to Examiner's Response to Appeal Brief dated March 3, 2009.

Status of Claims begin on page 2.

Grounds of Rejection to be Reviewed on Appeal begins on page 3.

Arguments begin on page 4.

STATUS OF CLAIMS

All pending claims, 9–22 and 33–35, stand finally rejected as per the Final Office Action of April 1, 2008, and are being appealed. Claims 9–22 and 33–35 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,670,413 to Weber (Weber '413).

Additionally, the Appellants note that, despite erroneous indication in the Final Office Action that only claims 12–22 and 33–35 are pending in the present application, reference to claims 9–11 is explicitly made in the Final Office Action at pages 3 and 4, and these claims are also indicated as pending in the Advisory Action of July 14, 2008.

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GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 9-22 and 33-35 are anticipated under 35 U.S.C. § 102(b) over U.S. Patent No. 3,670,413 to Weber (Weber '413).

ARGUMENTS

Appellants reassert their previous arguments set forth in the Appeal Brief. Irrespective of the Examiner's reference to the middle portion of the clips as the "first end(s)/portion(s)" thereof, a glance at the drawings from the Weber reference marked-up by the Examiner (in the Examiner's Answer) reveals that the *first end/portion* to which the Examiner has drawn an arrow is *not* an "**end**" of the clip. The Examiner's nomenclature used to describe portions Weber's "spring clips" 13 does not change the inherent structure of the clips. The arrows drawn by the Examiner on each of the enlarged diagrams indicating the "first end(s)/portion(s)" of clip 13 clearly point to a middle area of the clip, and in any event, these arrows certainly do not point to an *end* of the clip. If Weber's clip 13 has a second *end* at all, it is certainly not in the *middle* of the clip, as indicated by the arrow (discussed further below) supplied by the Examiner.

Totally irrespective of the Examiner's (or Appellants') nomenclature regarding which 'end' (of the spring clips 13) is which, Appellants' claimed flexible members 92 have *two* free ends (95, 93). [Appellants note that flexible members 92 must have two free (unattached) ends to allow each of these ends to move in the manner recited in the claims.] In contrast, each of the clips 13 disclosed in Weber clearly has *one free end only*. For this reason alone, the structure 92 recited in Appellants' claims 9, 12, 16, 19, and 33 is fundamentally different, and thus patentably distinct, from the structure disclosed by Weber '413. The Examiner has neither addressed, much less refuted, this fundamental structural difference. Therefore, it cannot be properly maintained that the Weber reference anticipates Appellants' claimed invention, given this essential difference in structure of the two devices.

Appellants further note that each of the pending independent claims recites a flexible member 92 having two separate ends 93 and 95, with "first portions" and "second portions" disposed at these ends of the flexible member. Appellants' claims further recite that "pressure on said second portions moves

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said first portions [located at the end of each flexible member] to said outward positions". As shown by the diagrams annotated by the Examiner, it is *impossible* to cause the second end of Weber's clip 13 to move to an outward (or any other) position by applying pressure to the first end, since the first end is rigidly attached to (and actually a part of) a hub 22. The Examiner appears to assert that pressure applied to the *middle* of the clip 13 (i.e., to the central part of the clip clearly pointed to by the annotated arrow) will cause the second end of the clip to move outwardly. However, this assertion is totally irrelevant to the present issue, since Appellants' claims recite that the second end of the clip is moved outwardly in response to pressure exerted at the *opposite end* (not the middle) of the flexible member 92.

Therefore, Appellants' claims cannot be anticipated by the Weber reference, since neither the structure nor the function of the respective devices are similar.

Applicants' believe there are no fees due in connection with this filing. However, if any fee is deemed necessary in connection with this Reply Brief, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 12-0600.

Respectfully submitted,

LATHROP & GAGE LC

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